THE SHORE NUISANCES (BOMBAY AND KOLABA) ACT, 1853.

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SCHEDULE.

ACT No. XI OF 1853.[1]

[THE SHORE NUISANCES (BOMBAY AND KOLABA) ACT, 1853.]

[*15th July 1853.*]

Repealed in part, by Act 22 of 1855;
" " " " " 14 of 1870.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.

Preamble. WHEREAS there is a large sea-shore in the islands of Bombay and Kolaba, and it is expedient, with a view to the safe navigation of the harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said harbour, or upon or about the shores of the said islands; It is enacted as follows:—

Power to give notice to remove nuisance. Mode of giving notice. Contents. Form. **1.** It shall be lawful for the Collector of Land-revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said harbour of Bombay, or upon or about the shores of the said islands; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the [2][Official Gazette], and shall state that, unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the Form No. 1, in the Schedule to this Act annexed, or to the like effect.

Petition by person denying right to remove nuisance. Procedure thereupon. **2.** If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay by petition, setting forth the grounds of his alleged right and praying that the said Collector may be restrained from causing such abatement or removal; and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

Onus of proving right. **3.** Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

Limitation of time for petition. **4.** No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.

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[1] This Act, so far as it relates to the removal of any obstruction, impediment or public nuisance affecting, or likely to affect the navigation of the port of Bombay, was repealed by Act 22 of 1855.

The short title was given by Bom. 2 of 1921.

[2] The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

When Collector may cause removal of nuisance.

Form of warrant.

Indemnity.

5. If no such petition shall be presented within the said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid by any person or persons to be authorized by warrant under his hand, and such warrant may be in the form No. 2 in the Schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

Power to sell materials of any encroachment.

6. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and, if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the [1][Central Government] shall direct.

Saving of rights of Crown.

7. Nothing in this Act shall prejudice or affect the rights of [2]* * * * the Crown in any part of the said harbour, or of the sea-shore of the said islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

"High-water mark" defined.

8. The words "high-water mark" in this Act shall mean the ordinary line of high-water at monsoon tides.

SCHEDULE.

FORM No. 1.

NOTICE is hereby given by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof; otherwise the same will be removed or abated by the said Collector under the authority of the said Act.

Dated the day of in the year of our Lord

(*Signature of Collector.*)

FORM No. 2.

THIS warrant, granted by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, is to authorise of to remove (*describe encroachment*).

(*Signature of Collector.*)

Dated

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[1] The words "Central Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "the East India Company as trustees for" were repealed by the Repealing Act, 1870 (14 of 1870).